



BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

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Joint Application of Wisconsin Electric Power  
Company and Wisconsin Gas LLC for Authority To  
Adjust Electric, Natural Gas and Steam Rates – Test  
Year 2020

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Docket No. 5-UR-109

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APPLICATION FOR APPROVAL OF SETTLEMENT AGREEMENT

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Wisconsin Electric Power Company and Wisconsin Gas LLC are pleased to submit the attached Settlement Agreement for the Commission's consideration under the statutory settlement process contained in Wis. Stat. § 196.026. The Settlement Agreement resolves all revenue requirement issues and selected rate design issues, as explained below. The Settlement Agreement is the result of extensive negotiations between Wisconsin Electric, Wisconsin Gas, the Wisconsin Industrial Energy Group and the Citizens Utility Board. Clean Wisconsin also has agreed to sign onto and support the Settlement Agreement. Commission Staff's thorough audit of the Joint Applicants' rate case filings provide the framework for the settlement, although the final terms of the Settlement Agreement reflect changes that lower Staff's proposed revenue requirement for Wisconsin Electric's electric customers from \$115 million to less than \$100 million for test year 2020. For Wisconsin Gas, the Joint Applicants accepted the results of Staff's audit except for minor increases in the equity portion of Wisconsin Gas' targeted capital structure and return on equity, reducing Wisconsin Gas's revenue deficiency from the as-filed amount of \$11 million to \$1.4 million.

This result was achieved by, among other things, agreeing to seek a financing order under Wisconsin's Environmental Trust Bond statute that will authorize Wisconsin Electric to securitize a portion of the undepreciated book value of environmental controls at the Pleasant

Prairie Power Plant. This change will save Wisconsin Electric's customers millions of dollars in carrying costs. The Settlement Agreement also extends the amortization period for a significant regulatory asset, supports future collaboration on rate design issues affecting residential, commercial and industrial customers and provides a more transparent generation planning process as Wisconsin Electric continues to transition its generation fleet for the future.

As required under Wis. Stat. § 196.026(7)(c) the Settlement Agreement represents a fair and reasonable resolution to the issues within its scope, is supported by substantial evidence on the record, complies with applicable law and results in rates that are just and reasonable. This Application and attached Settlement Agreement have been served today on each party of record in this docket, as demonstrated by the contemporaneously filed affidavit of service, thus starting the thirty-day period provided for in Wis. Stat. § 196.026(6) today. Therefore, the Joint Applicants, CUB, WIEG, and Clean Wisconsin respectfully request that the Commission approve the Settlement Agreement.

#### **I. Overview of drivers for rate increase.**

The Joint Applicants last filed a full rate case in 2014 for test year 2015. They have kept base rates flat since then by managing day-to-day costs, applying savings generated from Wisconsin Energy Corporation's 2015 acquisition of Integrys Energy Group and, with the Commission's permission, have taken advantage of federal tax elections to mitigate the growth of certain escrow balances in 2018 and 2019.

In their March 28 Application, the Joint Applicants discussed three principal drivers for their requested electric rate increase. First, Wisconsin Electric's recovery of ATC transmission expenses has been capped at 2010 levels since 2013. In the 2020 test year, this alone accounts for a revenue deficiency of \$82 million. Second, as the result of a prior Commission decision, Wisconsin Electric has accrued a regulatory asset of approximately \$186 million for expected

but not received System Support Resource (SSR) payments in connection with the Presque Isle Power Plant. Wisconsin Electric seeks approval to begin amortizing this regulatory asset and recovering it in retail rates. Third, cost escalation under the Commission-approved Point Beach Power Purchase Agreement increases costs in the 2020 test year by approximately \$27 million.

The combined effect of these drivers is a total revenue deficiency for the test year of approximately \$223 million. Based upon anticipated Staff audit adjustments, Wisconsin Electric targeted a revenue requirement increase of \$176 million. Wisconsin Electric also proposed to apply unprotected tax benefits as bill credits, effectively reducing the bill increases necessary to address the company's revenue deficiency. When combined with anticipated audit adjustments, Wisconsin Electric initially proposed targeted electric rate increases of 2.9% in each of 2020 and 2021.

The Joint Applicants also sought targeted increases of \$14.7 million (or 3.9%) for Wisconsin Electric – Gas Operations; \$11.0 million (or 1.8%) for Wisconsin Gas; and \$1.0 million (or 4.5%) for Wisconsin Electric's downtown steam utility.

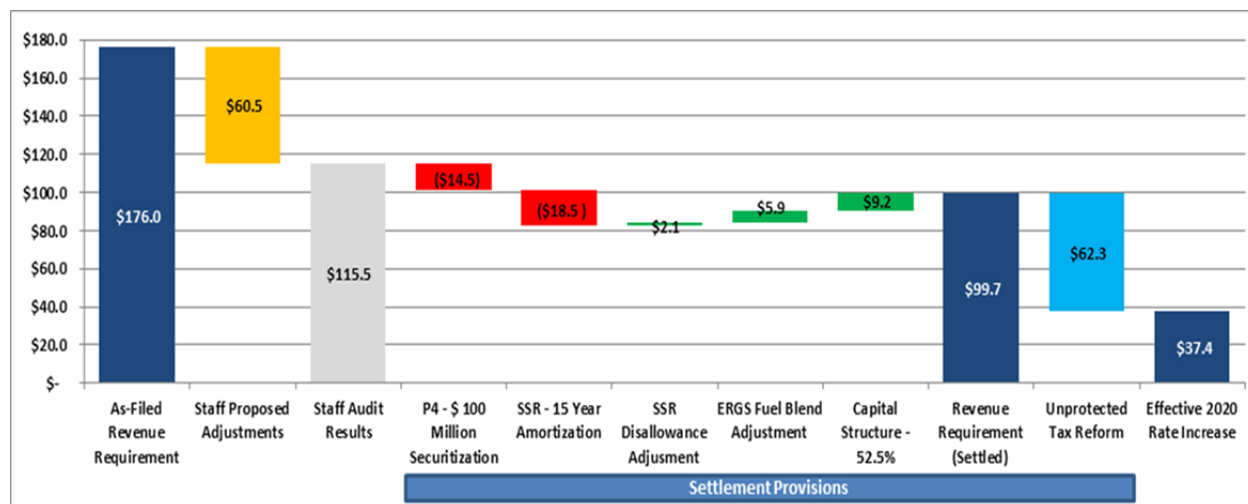
## **II. Settlement Agreement terms and conditions.**

Commission Staff's comprehensive, four-month audit of the Joint Applicants' filing provides the framework for the Settlement Agreement. Staff identified several recommended changes to the Joint Applicants' proposed revenue requirements. For purposes of settlement, the Joint Applicants have accepted nearly all of those audit adjustments, which, in the aggregate, lowered Wisconsin Electric's revenue deficiency for electric customers from \$176 million to \$115.5 million.

The Settlement Agreement further reduces the Joint Applicants' test year revenue deficiencies. The resulting agreement—which is a package arrangement consisting of many interdependent parts—ultimately results in an overall revenue deficiency of less than \$100

million (or 3.5%) for Wisconsin Electric electric customers, \$ 6.0 million (or 1.6%) for Wisconsin Electric – Gas Operations; \$ 1.4 million (or 0.2%) for Wisconsin Gas; and \$0.5 million (or 2.1%) for Wisconsin Electric’s downtown steam utility.

The chart below summarizes the five changes to Staff’s audit that are reflected in the Settlement Agreement and that directly affect Wisconsin Electric electric’s revenue deficiency:



The first departure from Staff’s audit will require Wisconsin Electric to request a financing order under Wisconsin’s Environmental Trust Bond statute allowing it to securitize \$100 million of undepreciated cost of environmental controls at the recently-retired Pleasant Prairie Power Plant (P4).<sup>1</sup> This proposed change will reduce the carrying cost for this \$100 million from the weighted average composite cost of capital to a long-term debt rate, which is expected to be lower. Wisconsin Electric estimates that this will save customers approximately \$14.5 million in the test year and between \$37 million and \$68 million on a net present value basis, depending on the interest rates and length of securitization approved (*e.g.*, 10 or 20 years) over the remaining depreciation period for P4. If the Commission declines to issue a financing

<sup>1</sup> The securitized amount will also include transaction costs and return on the \$100 million while the application for the financing order is pending.

order, Wisconsin Electric and customers will be held harmless, as recovery on P4 will be deferred to be addressed in a future limited reopener or limited rate proceeding.

Second, the Settlement Agreement extends the amortization period for the SSR escrow from six years, as Wisconsin Electric had proposed in its application, to 15 years. Staff's audit recommended no change to Wisconsin Electric's proposed amortization period. This change reduces the test year revenue requirement by approximately \$18 million.

Third, the Settlement Agreement restores \$10 million to the SSR escrow balance that the Staff audit suggested removing. The net effect of these two adjustments relating to the SSR escrow benefits customers by reducing Wisconsin Electric's revenue requirement by approximately \$16 million in the test year.

Fourth, the Settlement Agreement does not accept one of the Staff audit's proposed adjustments concerning Elm Road Generating Station (ERGS) fuel costs. Specifically, Staff assumed a fuel blend for ERGS that is not achievable under the facility's soon-to-be-issued Wisconsin Pollution Discharge Elimination System permit. The effect of this settlement term is to increase the test year revenue requirement by \$6 million.

The fifth and final change from the Staff audit reflects the Settlement Agreement's proposed target capital structure of 52.5% equity, as compared to Staff's proposal of 51% and the Company's initial proposal of 52.0%.<sup>2</sup> This increases the test year revenue requirement by approximately \$9 million.

The resulting Wisconsin Electric revenue deficiency for the test year after these Settlement Agreement provisions are applied is \$99.7 million. The Settlement Agreement also reinstates the Joint Applicants' original proposal to apply unprotected tax benefits as a bill credit in 2020 and 2021, as the Commission recently approved for Northern States Power Company-

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<sup>2</sup> As shown in Ex.-WEPCO WG-Zgonc-4 the targeted equity ratio of 52.5% will result in a range of 50.0% - 55.0%.

Wisconsin in Docket 4220-UR-124, thereby reducing the impact of rate increases in those years, without creating an artificial revenue requirement deficiency for the Joint Applicants after those credits are exhausted. The resulting effective revenue deficiency for Wisconsin Electric is \$37.4 million for 2020 and 2021.

The Settlement Agreement also addresses a number of provisions that do not directly affect the Joint Applicants' revenue requirement but are important components of this package settlement.

First, the Settlement Agreement adopts the Joint Applicants' proposal to implement consistent revenue sharing structures across all WEC utilities. Specifically, the utilities will retain the first 25 basis points of earnings above each utility's authorized rate of return on equity. The utilities and their customers will split the next 50 basis points of earnings and customers will receive a full refund of all earnings above 75 basis points. This is consistent with the approach the Commission adopted for Wisconsin Power & Light in docket 6680-UR-121 and for Northern States Power – Wisconsin in Docket 4220-UR-124.

Second, the Settlement Agreement adopts Staff's proposed decrease to the currently authorized return on equity for Wisconsin Electric (from 10.2% to 10.0%) and a decrease to the authorized return on equity for Wisconsin Gas (from 10.3% to 10.2%). The slightly higher return on equity for Wisconsin Gas is justified to support that utility's credit metrics, which have recently become stressed causing ratings agencies to put Wisconsin Gas on a negative credit watch. These stipulated levels of return on equity are amply supported by the testimony of Ms. Anne Bulkley, which was filed with the original application.

Third, the Settlement Agreement drops the Joint Applicants' request to increase their fixed charges for residential and small commercial electric and natural gas customers. The initial

proposals included increases to the facilities charges of 5.0% for Wisconsin Electric's residential electric customers, 42.0% for Wisconsin Electric's residential gas customers and 42.0% for Wisconsin Gas residential customers.

Fourth, the Settlement Agreement contains a series of commitments to work with CUB and WIEG on rate design issues that are important to each of their constituencies and to seek Commission approval to make necessary changes to tariffs and individual contracts. In particular, Wisconsin Electric has committed to maintain, through 2021, the status quo for real time pricing tariffs and programs in which a number of WIEG members are participating and to work with CUB to analyze household burden of electric and gas rates.

Fifth, the Settlement Agreement preserves intervenors' ability to challenge Wisconsin Electric's fuel costs that are not included in the scope of the Settlement Agreement and further recognizes that fuel costs will be adjusted just before issuance of the order in this case to reflect the most recent natural gas price projections and any other known changes such as updated coal or transportation contracts. Wisconsin Electric will file a fuel case in the ordinary course in 2020 for the 2021 test year.

Finally, the Settlement Agreement provides that Wisconsin Electric will share information with Commission Staff, WIEG, Clean Wisconsin, and CUB prior to retiring generating units in the future and to provide a briefing by senior management. In particular, Wisconsin Electric has committed to share the economic justification for future plant retirements, applications to MISO to retire generating assets, and the results of MISO Y2 retirement analyses. This process addresses one of the concerns raised in this docket about the economic justification for closing P4.



### **III. The Settlement Agreement satisfies the statutory criteria for approval.**

Wis. Stat. § 196.026(7) provides the framework for approval of settlement agreements under Wisconsin law:

The commission may approve a settlement agreement under sub. (4) if all of following conditions are met:

(a) All of the following have been given a reasonable opportunity to present evidence and arguments in opposition to the settlement agreement:

1. Each party that has filed an objection or nonobjection to the settlement agreement under sub. (6).

2. Each party whose failure to respond in writing constitutes a nonobjection to the settlement agreement under sub. (6).

(b) The commission finds that the public interest is adequately represented by the parties who entered into the settlement agreement. [and]

(c) The commission finds that the settlement agreement represents a fair and reasonable resolution to the docket, is supported by substantial evidence on the record as a whole, and complies with applicable law, including that any rates resulting from the settlement agreement are just and reasonable.

These statutory criteria are met. The Settlement Agreement is signed by the major, longstanding Wisconsin intervenors representing residential, commercial and industrial customers, who agree that the Settlement Agreement represents a fair and reasonable resolution to the docket. WIEG and CUB have been consistent and active participants in almost every rate case filed in Wisconsin—and most other significant dockets involving investor-owned utilities—over the past 40 years and together provide a broad representation of Wisconsin Electric’s and Wisconsin Gas’ various customer classes. They have also been signatories to the three investor-

owned utility settlements the Commission has approved under Wis. Stat. § 196.026. Likewise, Clean Wisconsin is a nonprofit organization with over 20,000 members and supporters, many throughout the Joint Applicants' service territory, which has represented the interests of its members before the Commission with respect to the protection of Wisconsin's air and water since 1970. Clean Wisconsin was a signatory to one of the investor-owned utility settlements the Commission has approved under Wis. Stat. § 196.026. CUB's, WIEG's and Clean Wisconsin's signatures on the Settlement Agreement establish that they think the agreement results in just and reasonable rates. Likewise, the fact that the Settlement Agreement reduced the Staff's audited revenue deficiency for Wisconsin Electric by 13% supports a Commission finding that the resulting rates are just and reasonable, and in the public interest.

Further, when this docket is viewed as a whole, the principal concerns of renewable energy advocates have also been addressed, further supporting a conclusion that the public interest is adequately represented. Wisconsin Electric previously resolved a significant issue with RENEW Wisconsin by withdrawing its proposed Fixed Cost Recovery Charge, which renewable energy advocates argued would have made investment in solar and wind generation less economic. The prior resolution of this issue further supports a conclusion that this Settlement Agreement represents a just and reasonable resolution to this docket.

Pursuant to Wis. Stat. § 196.026(5), the settling parties convened a conference with notice and opportunity to participate provided to all parties to discuss the proposed settlement agreement on August 29, 2019.<sup>3</sup> All but one of the non-settling parties had at least one representative participate in this conference: Charter Steel, the City of Milwaukee, Constellation NewEnergy Gas Division, Midwest Energy Procurement Solutions, LLC, RENEW Wisconsin, Walmart, Inc., the Environmental Law and Policy Center, Vote Solar, the Milwaukee

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<sup>3</sup> See Direct-WEPCO WG-Eidukas-3

Metropolitan Sewerage District, Roundy's, Sierra Club, the Wisconsin Paper Council, and Advocate Aurora Health Care, Inc. And, of course, objecting parties will have a chance to raise concerns within 30 days pursuant to Wis. Stat. § 196.026(6), and to provide additional testimony on the settlement and at the hearing scheduled for this docket.

The Settlement Agreement is supported by substantial evidence on the record. Unlike the other three settlements that have been approved under Wisconsin's settlement statute, this one comes after a comprehensive Staff audit. Indeed, as discussed above, the results of Staff's comprehensive audit provided the framework upon which the settlement is based, and the Settlement Agreement ultimately results in a rate increase *lower* than was justified by the audit. The Joint Applicants filed hundreds of pages of testimony and exhibits in support of their application. They have also responded to hundreds of data requests from WIEG and CUB designed to test their proposals from all angles, not to mention hundreds of additional requests from other intervenors and Staff. This extensive record supports the Settlement Agreement and should give the Commission comfort that it is in the best interest of customers.

Finally, this Application is being filed contemporaneously with supplemental direct testimony supporting the settlement agreement, providing information on how the terms of the agreement would impact Wisconsin Electric's and Wisconsin Gas' revenue requirements, as well as each of the companies' customer classes through their proposed cost of service and rate design.

**IV. The Commission should approve the Settlement Agreement without modification.**

The Settlement Agreement is the result of extensive negotiations between the Joint Applicants, WIEG, CUB, and Clean Wisconsin. Each of its terms work in concert with each other as an integrated whole to achieve an outcome that is in the public interest and will result in just and reasonable rates. While the Joint Applicants recognize the Commission's statutory authority to approve the Settlement Agreement in part, they ask that the Commission refrain from exercising that authority, which will trigger the opportunity for parties to seek rehearing or ultimately to withdraw from the agreement.

**V. Conclusion.**

The Joint Applicants respectfully ask the Commission to invite comments on the Settlement Agreement within 30 days of service of this filing, so that the Commission may consider this settlement proceeding on a parallel track with the underlying rate case and issue orders approving the settlement and a final decision in the rate case by the end of the year.

Respectfully submitted this 30th day of August, 2019.

Brad Jackson  
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*Electronically signed by  
Brad Jackson*

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